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	First Named Inventor	Thomas LEMMONS, et al.	
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	Examiner Name	W. H. McCulloch, Jr.	
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS & INTERFERENCES**

In re Patent Application of:

Thomas LEMMONS, *et al.*

Serial No. 09/939,306

Filed: August 24, 2001

For: **INTERACTIVE GAME VIA SET  
TOP BOXES**

Group Art Unit: 3714

Examiner: W. H. McCulloch, Jr.

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**APPEAL BRIEF (AMENDED)**

Sir:

The following amended Appeal Brief is submitted in support of the appeal proceedings instituted by a Notice of Appeal filed September 5, 2006, in response to the final Office Action mailed March 6, 2006, and in further response to the Notification of Non-Compliant Appeal Brief mailed April 25, 2007, in connection with the above-captioned patent application.

In this amended Appeal Brief, Appellants amended Section (V) Summary of Claimed Subject Matter to address the Patent Appeal Center Specialist's assertion that the claimed invention is not mapped to independent claim 44. Appellants added additional details to the summary of claimed subject matter of claim 44 providing specification page and line numbers and references to the drawings.

**I. REAL PARTY IN INTEREST**

OpenTV, Inc. is the real party in interest.

**II. RELATED APPEALS AND INTERFERENCES**

There are presently no appeals or interferences known to the Appellant, the Appellant's representative, or the assignee, which will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal.

**III. STATUS OF CLAIMS**

Claims 17-54 are currently pending in the application. This Appeal is taken from the rejection of claims 17-54, as submitted in the attached Claims Appendix.

**IV. STATUS OF AMENDMENTS**

No amendments have been entered to the claims subsequent to the Final Rejection mailed on March 6, 2006.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention is generally directed to a system and method for interactive games that are broadcast over an interactive television broadcast system. The participants may play directly against each other, the game is broadcast to other viewers in addition to the participants, and the outcome of the game is determined by the actions of the participants and/or by computer generated events.

Independent claim 17 of the present application recites a method of implementing an interactive game between at least two players and viewed by a least one non-participating viewer in an interactive television broadcast system. (Please see page 2, lines 9-12; please see also page 9, lines 24-26; see also page 25, lines 25-31). The method includes launching the interactive game on a video game server connected to the television broadcast system that controls play of the interactive game. (Please see, for example, page 3, line 26 to page 4, line 15; please see also page 5, line 29 to page 6, line 10; see also page 9, lines 11-26; see also page 10, lines 7-19, line 29 to page 11, line 11). The method further includes embedding first markup language code in a video broadcast stream, the first markup language code generated by the video game server and broadcast to a first set top box at a specific address in the video broadcast system, the first markup language code comprising a user interface for a first player of the at least two players. The method also includes embedding second markup language code in the video broadcast stream, the second markup language code generated by the video game server and broadcast to a second set top box at another specific address in the video broadcast system, the second markup language code comprising a user interface for a second player of the at least two players.

The method of claim 17 further recites selecting at least one of the first and second players for the interactive game based on at least one parameter provided by the first or second players; transmitting a game control signal that is generated in response to an input from the first player playing the interactive game, and message data from the first set top box to the video game server. The method also includes receiving the game control signal and the message data at the video game server;

generating video images in the video game server in response to the signal; inserting the video images into the video broadcast stream; transferring the message data from the video game server to the second set top box; and broadcasting the video broadcast stream to a plurality of set top boxes including set top boxes of the at least two players and the at least one nonparticipating viewer.

Additionally, independent claim 27 recites an interactive game system that carries out the method recited in independent claim 17. That is, claim 27 recites an interactive game system comprising a server that executes an interactive game and that controls play of the interactive game and produces video images of the game. The system of claim 27 also includes a television broadcast system connected to the server that broadcasts a video broadcast stream containing the video images to a plurality of set top boxes including set top boxes of at least two players of the interactive game and at least one non-player of the game, and that broadcasts embedded markup language code, if any, addressed individually to the set top boxes of at least two players.

The system of claim 27 further comprises a first set top box connected to the television broadcast system that receives the video broadcast stream and that acquires first markup language code addressed to the first set top box where the first markup language code is embedded in the video broadcast stream and provides a first user interface for a first player.

System claim 27 also recites a second set top box connected to the television broadcast system that receives the video stream and that acquires second markup language code addressed to the second set top box where the second markup language

code is embedded in the video broadcast stream and provides a second user interface for a second player as well as a third set top box connected to the broadcast system that receives the video stream and that outputs the video images to a display device of at least one viewer that does not participate in said game.

Additionally, claim 27 recites the server is further configured to receive a data message from the first set top box and transfer the data message to the second set top box and at least one of the first and second players for the interactive game is selected based on at least one parameter provided by the first or second players.

Independent claim 39 recites an interactive game system for playing an interactive game between at least two players of the interactive game on a broadcast television network and broadcasting the interactive game to at least one additional viewer of the interactive game that is not a participant in the game. System claim 39 recites similar features as independent system claim 27, and claim 39 recites the features in means-plus-function form.

The system of claim 39 includes first means for running the interactive game and producing video images of the game. (See page 9, lines 5-10 for reference of televisions 118, 120, 122, 124 and personal computer 116 depicted in Fig. 1. See also page 8, lines 18-22 for details regarding personal computer 116. See page 7, line 14 to page 8, line 5 for discussion of an integrated set top box 106, 108, 110, 112 and television 118, 120, 122, 124 combination. See page 9, lines 5-10 for hand held gaming devices, wireless personal digital assistants, and other devices where a broadcast video signal may be displayed. See also page 9, lines 18-26 for reference of televisions 212, 214, 216 depicted in Fig. 2. See also page 9, line 27 to page 10, line 6

for details regarding integrated set top boxes and television combinations.) The system of claim 39 also includes second means for producing a video signal from the video images and embedding markup language code addressed to specific receiving means in the signal, the markup language code including code, if any, that is necessary for the players to play the game. (See page 5, line 28 to page 6, line 18 for reference of server system 102 depicted in Fig. 1 that generates a video signal; see also page 6, lines 8-18; see also page 9, lines 18-26 for reference of server system 202 that generates a broadcast signal; see also page 10, starting at line 7 for details regarding the types of signals produced by the server system 202.)

Further, the system of claim 39 recites broadcast television network means for broadcasting the video signal. (See page 5, line 29 to page 6, line 1 for reference of broadcast network 104 depicted in Fig. 1; see also page 6, lines 19-26; see also page 10, lines 7-19 for reference of broadcast network 204 and page 10, starting at line 29 for details regarding the types of signals sent by broadcast network 204 depicted in Fig. 2.)

The system of claim 39 further includes first receiving means for receiving the video signal from the broadcast television network means and acquiring first markup language code addressed to the first receiving means embedded in the video signal, the first markup language code comprising a user interface for a first player of the at least two players. (See page 6, line 27 to page 8, line 5 for reference of set top boxes 106, 108, 110, 112, 128 depicted in Fig. 1 and discussion of the features included in the boxes; see also page 10, line 27 to page 11, line 6 for details regarding set top

boxes 206, 208, 210 in Fig. 2. Additionally, please see page 7, lines 14-23 and page 20, lines 5-12 for details regarding markup language code.)

Similarly, the system of claim 39 includes second receiving means for receiving the video signal from the broadcast television network means and acquiring second program code addressed to the second receiving means embedded in the video signal, the second markup language code comprising a user interface for a second player of the at least two players. (See page 6, line 27 to page 8, line 5 for reference of set top boxes 106, 108, 110, 112, 128 depicted in Fig. 1 and discussion of the features included in the boxes; see also page 10, line 27 to page 11, line 6 for details regarding set top boxes 206, 208, 210 in Fig. 2. Additionally, please see page 20, lines 5-12 for details regarding markup language code.)

Claim 39 also recites means for receiving a data message from the first receiving means and transferring the data message to the second receiving means. (Please see page 6, lines 19-26 regarding reverse channel 130 shown in Fig. 1; see also page 7, lines 3-5. See also page 9, starting at line 27 regarding the direct transmission of data messages between set top boxes 206, 210 as shown in Fig. 2; see page 20, lines 5-18 for additional description of the receipt of data messages.)

Further, claim 39 recites means for selecting at least one of the first and second players for the interactive game based on at least one parameter provided by the first or second player. (Please see page 14, line 8 to page 15, line 30 regarding the registration process for entering parameters provided by the first or second player illustrated in Fig. 4 and the means for selecting, including the set tops 106, 108, 110, 112, 128, an authentication system, a software file, or by another mechanism of



identifying the participant without the participant's express involvement. Also, a database may include information obtained through the registration process including at least one parameter provided by the first or second player. See also page 16, line 10 to page 18, line 26 describing the process by which participants may be selected to participate in a game.

Claim 39 also recites third receiving means for receiving the video signal from the broadcast television network means and presenting the video images to the at least one additional viewer that is not a participant in the game. (See page 9, lines 18-26 regarding set top box 208 connected to television 214 where a non-participating viewer may view the game. See also page 9, lines 5-10 for reference of televisions 118, 120, 122, 124 and personal computer 116 depicted in Fig. 1. See also page 8, lines 18-22 for details regarding personal computer 116. See page 7, line 14 to page 8, line 5 for discussion of an integrated set top box 106, 108, 110, 112 and television 118, 120, 122, 124 combination. See page 9, lines 5-10 for hand held gaming devices, wireless personal digital assistants, and other devices where a broadcast video signal may be displayed. See also page 9, lines 18-26 for reference of televisions 212, 214, 216 depicted in Fig. 2. See also page 9, line 27 to page 10, line 6 for details regarding integrated set top boxes and television combinations.)

Independent claim 44, recites an interactive game system comprising a server that executes an interactive game, controls play of the interactive game, and produces video images of the game. (Please see page 3, line 26 to page 4, line 15; please see also page 5, line 28 to page 6, line 26; see also Figures 1-3). The system recited in claim 44 also includes a television broadcast system connected to the server that

broadcasts a video broadcast stream containing the video images to a plurality of set top boxes including set top boxes of at least two players of the interactive game and at least one non-player of the game, and that broadcasts embedded markup language code, if any, addressed individually to the set top boxes of at least two players. (Please see page 7, line 14 to page 8, line 5; see also page 9, lines 18-26; please see also Figure 2; see also page 20, lines 5-12; see also page 21, lines 25-31; see also page 23, lines 13-22; see also page 25, lines 25-31; see also page 26, lines 21-26).

Additionally, the system of claim 44 includes a first set top box connected to the television broadcast system that receives the video broadcast stream and that acquires first markup language code addressed to the first set top box, where the first markup language code is embedded in the video broadcast stream and provides a first user interface for a first player. (Please see page 16, lines 10-19; see also Figure 5).

Claim 44 further comprises a second set top box connected to the television broadcast system that receives the video stream and that acquires second markup language code addressed to the second set top box, where the second markup language code is embedded in the video broadcast stream and provides a second user interface for a second player. (Please see page 18, lines 5-11; see also Figure 5; see also page 24, lines 8-18).

The system of claim 44 also includes a third set top box connected to the broadcast system that receives the video stream and outputs the video images to a display device of at least one viewer that does not participate in the game, where the server is further configured to receive a data message from the first set top box and transfer the data message to the second set top box, where at least one of the first and

second players for the interactive game is selected based on at least one parameter provided by the first or second players, and where the registration of at least one of the first and second players is solicited through a television advertisement. (Please see page 19, line 28 to page 20, line 4; see also Figure 5).

As such, the claims of the present invention recite an advantageous method of playing interactive games that are broadcast over an interactive television broadcast system.

#### **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The grounds of rejection to be reviewed on appeal are as follows:

A. Claims 17, 19-32, and 34-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over W.O. 99/00163 to Eilat et al. ("the Eilat application").

B. Claims 44-50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over W.O. 99/00163 to Eilat et al. ("the Eilat application") in view of Korilis et al. U.S. Patent Number 6,335,744 ("the Korilis patent").

C. Claims 18 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over W.O. 99/00163 to Eilat et al. ("the Eilat application") in view of the article entitled "Creating a Live Broadcast from a Virtual Environment" by Greenhalgh et al. ("the Greenhalgh article").

D. Claims 51-53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over W.O. 99/00163 to Eilat et al. ("the Eilat application") in view of Lavanchy et al. U.S. Patent Number 6,758,754 ("the Lavanchy patent").

E. Claim 54 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over W.O. 99/00163 to Eilat et al. ("the Eilat application") in view of Korilis et al. U.S. Patent Number 6,335,744 ("the Korilis patent") and in further view of Lavanchy et al. U.S. Patent Number 6,758,754 ("the Lavanchy patent").

## **VII. ARGUMENTS**

### **A. The Rejection of Claims 17, 19-32 and 34-43 under 35 U.S.C. § 103(a) as being Unpatentable over Eilat et al. W.O. 99/00163 Should be REVERSED.**

Claims 17, 19-32, and 34-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over W.O. 99/00163 to Eilat et al. ("the Eilat application") as indicated beginning on page 2 of the March 6, 2006, final Office Action. Appellants appeal this rejection and request reversal because the Eilat application fails to disclose or suggest (a) embedding markup language code in a video broadcast stream where the markup language code includes a user interface; and (b) selecting at least one of the first and second players for a game based on at least one parameter provided by the first or second players.

The present invention is generally directed to a system and method for playing interactive games that are broadcast over an interactive television broadcast system. The participants may play directly against each other, the game is broadcast to other viewers in addition to the participants, and the outcome of the game is determined by the actions of the participants and by computer generated events.

1. The Rejection of Independent Claim 17 under 35 U.S.C. § 103(a) should be REVERSED.

Independent claim 17 recites a method of implementing an interactive game between at least two players and viewed by a least one non-participating viewer in an interactive television broadcast system. The method of implementing the interactive game comprises launching the interactive game on a video game server connected to the television broadcast system that controls play of the interactive game. The method of claim 17 further includes embedding first markup language code in a video broadcast stream, where the first markup language code is generated by the video game server and is broadcast to a first set top box at a specific address in the video broadcast system. The first markup language code includes a user interface for a first player of the at least two players.

The method of claim 17 also includes embedding second markup language code in the video broadcast stream, the second markup language code generated by the video game server and broadcast to a second set top box at another specific address in the video broadcast system. The second markup language code comprises a user interface for a second player of the at least two players.

Additionally, claim 17 recites selecting at least one of the first and second players for the interactive game based on at least one parameter provided by the first or second players and transmitting a game control signal that is generated in response to an input from the first player playing the interactive game and message data from the first set top box to the video game server.

The method of claim 17 also includes receiving the game control signal and the message data at the video game server, generating video images in the video game server in response to the signal, inserting the video images into the video broadcast stream, and transferring the message data from the video game server to the second set top box.

The method of claim 17 broadcasts the video broadcast stream to a plurality of set top boxes including set top boxes of the at least two players and the at least one nonparticipating viewer.

In contrast, the Eilat application focuses on a gaming method where the game captures a picture of a player and processes the picture to create an avatar of the player and electronically assimilates the avatar into a game enabling the player to play the game by controlling the avatar.

- (a) The Eilat application fails to disclose embedding markup language code in a video broadcast stream where the markup language code includes a user interface.

In the Eilat application, there is no disclosure of the feature “embedding first markup language code in a video broadcast stream, said first markup language code generated by said video game server and broadcast to a first set top box at a specific address in said video broadcast system, said first markup language code comprising a user interface for a first player of said at least two players.” The Examiner concedes as much by stating, “Eilat et al. seems to lack explicitly disclosing: Regarding Claims 17, 27, and 39: embedding first markup language code in a video broadcast stream; and embedding second markup language code in said video broadcast stream.” See

page 5, paragraph 6 to page 6, paragraph 1 in the final Office Action mailed March 6, 2006. The Examiner asserts that the Eilat application discloses embedding first and second gaming code in a video broadcast stream and that the Eilat application discloses the video broadcast stream can be communicated over the Internet using Internet protocols. See page 6, paragraph 5 in the final Office Action mailed March 6, 2006 (emphasis added).

However, the Eilat application makes no reference to embedding any type of markup language in a video broadcast stream, much less the first markup language code comprising a user interface for a first player as recited in claim 17. Instead, the Eilat application mentions encoding a first version of the game using a first gaming program code to generate an encoded first version of the game (see page 5, ¶4; page 9, ¶1; page 10, ¶2 of the Eilat application). There is no disclosure of embedding markup language code including a user interface.

In the present application, the first markup language code is embedded in a video broadcast stream and includes a user interface. That is, the user interface is established upstream from the user, and the interface is provided to the user as a part of the video broadcast stream. In the Eilat application, a first version of the game is encoded using a first gaming program code to create a first version of the game, and the first version of the game is provided to the user interface device. In the Eilat application, the user interface is not provided upstream from the user, but rather exists after combining the first version of the game with additional information in the user interface device. Please see page 9, ¶1 (lines 18-21) of the Eilat application. The

same is true for the second version of the game and the manner in which it is provided to a second user.

The Examiner cites to the “gaming code” of the Eilat application as meeting the limitation recited in claim 17 of the present application, but in the Eilat application there is no disclosure of the embedded first markup language code comprising a user interface. The gaming code disclosed in the Eilat application merely provides a copy of the game to a first participant. The user interface is provided by:

[A] player unit including a camera which is operative to take a picture of a player, and an interface device coupled to the camera, to the television, and to a communication network and operative to receive gaming inputs from the player and to transmit the gaming inputs and the picture of the player received from the camera to the headend via the communication network, wherein the gaming inputs include control signals operative to control operations of an avatar based on the picture of the player, and the avatar is electronically assimilated in the interactive game by a virtual studio.

Eilat application, page 8, ¶4.

Further, the Eilat application encodes a first version of the interactive game:

[B]y employing a first gaming program code to generate an encoded first version of the interactive game, and for encoding a second version of the interactive game by employing a second gaming program code to generate an encoded second version of the interactive game, a multiplexer for multiplexing the encoded first version of the interactive game and the encoded second version of the interactive game to produce a multiplexed signal, and a transmitter for transmitting the multiplexed signal to a plurality of viewers, a multiplicity of viewer units, each including a television and an interface device which is coupled to the communication network and is operative to receive, demultiplex and decode the first version of the interactive game by employing the first gaming program code, a player unit at which an interactive game is played by a player, the player unit including a player



television, and a player interface device coupled to the player television, and to the communication network, wherein the player interface device is operative to receive, demultiplex and decode the second version of the interactive game by employing the second gaming program code, and a player interface kit which includes at least a two-way link with the player unit, and the player interface kit is operative to detect actions performed by the player, to obtain a stream of detection signals therefrom, and to transmit the stream of detection signals to the headend via the player interface device and the communication network, and detection signals are employed at the headend to implement the actions of the player in an avatar which simulates the player, the avatar being electronically inserted in the first version of the interactive game which is transmitted to the multiplicity of viewer units.

Eilat application, page 9, first full ¶ (emphasis added).

Similarly, in the Eilat application, there is no disclosure of the feature “embedding second markup language code in said video broadcast stream, said second markup language code generated by said video game server and broadcast to a second set top box at another specific address in said video broadcast system, said second markup language code comprising a user interface for a second player of said at least two players.” See page 8, ¶4 and page 9, first full ¶ as reproduced above.

In the final Office Action mailed March 6, 2006, the Examiner concedes that these features of the present application are not disclosed by the Eilat application by asserting that, “Eilat et al. seems to lack explicitly disclosing: Regarding Claims 17, 27, and 39: embedding first markup language code in a video broadcast stream; and embedding second markup language code in said video broadcast stream.” See page 5, paragraph 6 to page 6, paragraph 1 in the final Office Action mailed March 6, 2006. The Examiner asserts that the Eilat application discloses embedding first and second

gaming code in a video broadcast stream and that the Eilat application discloses the video broadcast stream can be communicated over the Internet using Internet protocols. See page 6, paragraph 5 in the final Office Action mailed March 6, 2006.

However, the Eilat application makes no reference to embedding any type of markup language in a video broadcast stream, much less the first markup language code comprising a user interface for a first player as recited in claim 17. Instead, as outlined above, the Eilat application mentions encoding a first version of the game using a first gaming program code to generate an encoded first version of the game (see page 5, ¶4; page 9, ¶1; page 10, ¶2 of the Eilat application). There is no disclosure of embedding markup language code including a user interface. The gaming codes disclosed in the Eilat application merely provide copies of the game to the first and second participant.

The Examiner asserts, "Embedding HTML (hypertext markup language) in a broadcast stream over a network, such as the Internet, was notoriously well known at the time of Applicant's invention." See page 6, paragraph 5 in the final Office Action mailed March 6, 2006. The Examiner further asserts that, "Embedding HTML signals in the broadcast enables the players gaming machine, set top box, and television to incorporate text, graphics, sound, and video associated with the game." See page 6, paragraph 5 in the final Office Action mailed March 6, 2006. However, these assertions do not remedy the deficiencies of the Eilat application. That is, there is no disclosure nor any suggestion of "embedding first markup language code in a video broadcast stream, said first markup language code generated by said video game server and broadcast to a first set top box at a specific address in said video broadcast

system, said first markup language code comprising a user interface for a first player of said at least two players” as recited in claim 17. This feature, and the similar embedding of second markup language code, is not disclosed in the cited reference, nor is there any suggestion or motivation in the reference to modify the method of the Eilat application to produce Appellants’ method recited in independent claim 17 of the present application.

- (b) The Eilat application fails to disclose selecting at least one of the first and second players for a game based on at least one parameter provided by the first or second players

Independent claim 17 further recites a method of implementing an interactive game between at least two players and viewed by at least one non-participating viewer in an interactive television broadcast system including selecting at least one of the first and second players for a game based on at least one parameter provided by the first or second players.

In the Eilat application, there is no disclosure of the feature “selecting at least one of the first and second players for a game based on at least one parameter provided by the first or second players.” On page 3 of the March 6, 2006, Office Action, the Examiner asserts that Eilat discloses “selecting at least one of the first and second players for said interactive game based on at least one parameter provided by the first or second players.” To support this assertion, the Examiner cited the Eilat application at page 5, lines 1-4; page 6, lines 15-20; page 18, line 19 to page 19, line 5; page 19, lines 23-29; and page 23, lines 7-13. With respect, Appellants submit that the Eilat application does not disclose this feature of independent claim 17.

The Eilat application at page 5, lines 1-4 discloses selecting a basic avatar from a group of avatars and confirming a selection of the avatar. The portion of the Eilat application cited at page 6, lines 15-20, also discloses selecting a basic avatar, confirming a selection of the avatar and combining a picture of a player with the basic avatar. Appellants submit that the selection of an avatar does not teach the claimed feature because the selection of an avatar is not the selection of a user. The portion of the Eilat application cited at page 18, lines 19-25 defines what the reference considers to be an avatar. An avatar is described as “an embodiment or personification, typically a video embodiment or personification, of a person which is typically combined with other video images in a virtual studio.” The avatar of the Eilat application exists separately from a player and can be merely a picture of a player or an animated character chosen to enhance the game playing experience (see page 18, lines 21-25 of the Eilat application). Appellants respectfully submit that disclosure of an avatar in the Eilat application does not teach “selecting at least one of the first and second players for said interactive game based on at least one parameter provided by the first or second players” as recited in claim 17 of the present application.

The Examiner also asserted that the Eilat application discloses the selection of a player “by an audience that views the game show, by a manager of the game show, or automatically based on a predetermined criterion, such as previous game playing history of the viewer who wishes to be a player” (see page 19, lines 1-5 of the Eilat application). Appellants submit that none of these examples in the Eilat application show “selecting at least one of the first and second players for said interactive game based on at least one parameter provided by the first or second players” as recited in

claim 17 of the present application. Rather, the cited portion of the Eilat application merely shows the selection of a player by someone or something that is not a player. There is no teaching in the Eilat application to suggest that the selection by an audience member, by a manager, using a predetermined criterion, or using game playing history includes a parameter provided by a player. Appellants therefore submit that the cited portion of the Eilat application does not show the selection of a player “based on at least one parameter provided by the first or second players” as required by claim 17.

2. The Rejection of Dependent claims 19-26 under 35 U.S.C. § 103(a) should be REVERSED.

Claims 19-26 of the present application depend upon independent claim 17 and thereby include all the limitations of claim 17 while reciting additional features of a method of the present invention. Appellants respectfully submit that the rejection of claims 19-26 is improper under 35 U.S.C. § 103(a) for similar reasons outlined above with regard to the rejection of claim 17. As discussed above, the cited reference fails to disclose or suggest all the elements and limitations recited in independent claim 17 of the present application and fails to render claim 17 obvious under 35 U.S.C. § 103(a). Therefore, the applied reference also fails to disclose all the features and limitations of dependent claims 19-26, as well, and also fails to render claims 19-26 obvious under 35 U.S.C. § 103(a).

Additionally, on page 10 of the March 6, 2006, final Office Action, in the third paragraph, the Examiner asserts, “Applicant contended that other dependent claims are patentable over the prior art simply because independent claims are patentable.

The examiner has shown that the independent claims are anticipated by the prior art, and therefore so are the depending claims. For the reasons above, the previous rejection of claims 17-50 is deemed proper.”

With respect, Appellants submit that the rejection reiterated in the March 6, 2006, Office Action was made under 35 U.S.C. § 103(a) and as such, there is no anticipation by any prior art. Further, the rejection maintained by the Examiner applies an erroneous and improper standard for patentability. The syllogism that the Examiner asserts is logically flawed. As Appellants asserted, if the independent claims are patentable, the dependent claims are also patentable because, by definition, dependent claims include all features and limitations of the independent claims from which they depend. Dependent claims simply add additional features and limitations to the independent claims from which they depend. The converse relationship is not true.

If the Examiner believes that he has shown that the independent claims are anticipated [sic] by the prior art, it does not follow that the depending claims are also anticipated by the prior art. (In addition to the independent claims) the dependent claims of the present application recite additional features and limitations not taught by the prior art. The Examiner fails to meet the burden of showing that each and every feature is disclosed by the prior art reference, or under 35 U.S.C. § 103(a), that it would have been obvious to combine prior art references to produce the recited claims of the present application. As such, Appellants respectfully submit that the Examiner has not shown that Appellants’ invention would have been obvious under 35 U.S.C. § 103(a). Accordingly, Appellants respectfully submit that claims 19-26

are allowable by virtue of their dependency upon claim 17 as outlined above and in view of the improperly applied standard for their rejection. Appellants respectfully request that the rejection of claims 19-26 under 35 U.S.C. § 103(a) be reversed.

3. The Rejection of Claims 27-32 and Claims 34-38 under 35 U.S.C. § 103(a) should be REVERSED.

Independent claim 27 recites an interactive game system that carries out the method recited in independent claim 17. As such, the limitations and features of independent claim 27 are closely related to the steps recited in independent method claim 17. Therefore, Appellants respectfully submit that the Eilat application fails to disclose or suggest all the elements of claim 27 of the present invention as well. Appellants respectfully submit that claim 27 is allowable over the cited reference for the reasons outlined above with regard to claim 17 and contend that the rejection of claim 27 under 35 U.S.C. § 103(a) is improper and should be reversed.

Likewise, claims 28-32 and claims 34-38 of the present application depend upon claim 27 and thereby include all the limitations of independent claim 27 while reciting additional features of a system of the present invention. As discussed above, the cited reference fails to disclose all the elements and limitations recited in independent claim 27 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claims 28-32 and claims 34-38, as well. Accordingly, Appellants respectfully submit that claims 28-32 and claims 34-38 are allowable by virtue of their dependency upon claim 27 as outlined above. Appellants respectfully request that the rejection of claims 28-32 and claims 34-38 under 35 U.S.C. § 103 be reversed.

4. The Rejection of Claims 39-43 under 35 U.S.C. § 103(a) should be REVERSED.

Independent claim 39 recites an interactive game system that carries out the method recited in independent claim 17. Independent claim 39 recites an interactive game system in means-plus-function format that carries out the method recited in method claim 17. As such, the limitations and features of independent claim 39 are closely related to the steps recited in independent method claim 17. Therefore, Appellants respectfully submit that the Eilat application fails to disclose or suggest all the elements of claim 39 of the present invention as well. Appellants respectfully submit that claim 39 is allowable over the cited reference for the reasons outlined above with regard to claim 17 and contend that the rejection of claim 39 under 35 U.S.C. § 103(a) is improper and should be reversed.

As indicated above with regard to the method of claim 17, the cited portions of the Eilat application fail to disclose selection of a player “based on at least one parameter provided by the first or second players.” Additionally in the Eilat application, no means are disclosed nor suggested for selection of a player “based on at least one parameter provided by the first or second players” as recited in claim 39.

The Examiner points to page 19, lines 23-29 of the Eilat application as disclosing this feature. However, this portion of the Eilat application merely discloses processing a picture of a player and providing the processed picture to a virtual studio assembly that adapts the picture of an avatar having combined characteristics of the player and the avatar. Appellants respectfully submit that the cited portion of the Eilat



application does not show any means for the selection of a player based on at least one parameter provided by the first or second players.

Appellants respectfully submit that the Examiner's reference to page 23, lines 7-13 of the Eilat application also fails to disclose or suggest "selecting at least one of the first and second players for said interactive game based on at least one parameter provided by the first or second players." The portion cited by the Examiner discloses the selection of a viewer "performed by placing a telephone call to the viewer's residence and informing him of the selection, or by transmitting a selection message which is individually addressed to the viewer." The placement of a telephone call to a player also fails to identify any "parameter provided by the first or second players."

In the March 6, 2006, Office Action, the examining corps appeared to have a change of heart in identifying the portions of the Eilat application discussed above as teaching the claimed features regarding the selection of at least one of the first and second players based on at least one parameter provided by the first or second players, because in the previous Office Action mailed February 25, 2005, the Examiner recognized the failure of Eilat to explicitly disclose these claimed features. To wit, on page 9 of the February 25, 2005, Office Action, the Examiner stated:

The Examiner agrees this feature may not be explicitly taught in Eilat et al., however, the feature is clearly taught in the reference. In the instant application, Applicant cites page 15 for support of the position that a player-defined parameter is provided by the first or second players. One of the player-provided parameters is the player's playing history which is clearly taught as a criterion for a player to be selected in Eilat et al. (page 19, lines 1-5.)"

No further details regarding this apparent contradiction were included in the February 25, 2005, Office Action, nor in the Office Action mailed March 6, 2006.

In the most recent March 6, 2006, Office Action, however, this response to Appellants arguments is missing. In support of the February 25, 2005, rejection, the Examiner cited page 19, lines 1-5 of the Eilat application and stated, "One of the player-provided parameters is the player's playing history which is clearly taught as a criterion for a player to be selected in Eilat." As Appellants noted above, this portion of the Eilat application discloses use of previous game playing history to select a player "automatically." While Appellants do not dispute that the Eilat application discloses the use of previous game playing history in player selection, Appellants respectfully submit that there is no suggestion in the Eilat application that a player's playing history is specified, defined, or in any way provided by a player as part of a player selection process. For example, the player's history may be automatically tracked, stored, and recalled by the system of the Eilat application. Appellants respectfully submit that the claimed methods, systems and means for selecting at least one of the first and second players for a game based on at least one parameter provided by the first or second players are not shown nor suggested by the Eilat application. Appellants respectfully request that the rejection of claim 39 under 35 U.S.C. § 103 be reversed.

Likewise, claims 40-43 of the present application depend upon claim 39 and thereby include all the limitations of independent claim 39 while reciting additional features of a system of the present invention. As discussed above, the cited reference fails to disclose or suggest all the elements and limitations recited in independent

claim 39 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claims 40-43, as well. Accordingly, Appellants respectfully submit that claims 40-43 are allowable by virtue of their dependency upon claim 39 as outlined above. Appellants respectfully request that the rejection of claims 40-43 under 35 U.S.C. § 103 be reversed.

**B. The Rejection of Claims 44-50 under 35 U.S.C. §103(a) as being Unpatentable over Eilat et al. W.O. 99/00163 in View of Korilis et al. U.S. Patent Number 6,335,744 Should be REVERSED.**

Independent claim 44 recites an interactive game system that carries out the method recited in independent claim 17. As such, the limitations and features of independent claim 44 are closely related to the steps recited in independent method claim 17. Therefore, Appellants respectfully submit that the Eilat application fails to disclose or suggest all the elements of claim 44 of the present invention as well. The Examiner relied upon the Korilis patent to provide “registration of at least one of the first and second players is solicited through and [sic] advertisement.” See page 7, paragraph 2 of the March 6, 2006, Office Action.

There is no disclosure in the cited portions of the Korilis patent of either embedding markup language code in a video broadcast stream where the markup language code includes a user interface or selecting at least one of the first and second players for a game based on at least one parameter provided by the first or second players. Appellants respectfully submit that the Korilis patent fails to remedy the deficiencies of the Eilat application with regard to these claimed features.

Appellants respectfully submit that claim 44 is allowable over the cited combination of references for the reasons outlined above with regard to claim 17 and that the rejection of claim 44 under 35 U.S.C. § 103(a) is improper and should be reversed.

Similarly, claims 45-47 of the present application depend upon claim 17 and thereby include all the limitations of independent claim 17 while reciting additional features of a method of the present invention. As discussed above, the cited reference fails to disclose or suggest all the elements and limitations recited in independent claim 17 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claims 45-47, as well. Accordingly, Appellants respectfully submit that claims 45-47 are allowable by virtue of their dependency upon claim 17 as outlined above. Appellants respectfully request that the rejection of claims 45-47 under 35 U.S.C. § 103 be reversed.

Likewise, claims 48-50 of the present application depend upon claim 27 and thereby include all the limitations of independent claim 27 while reciting additional features of a system of the present invention. As discussed above, the cited reference fails to disclose or suggest all the elements and limitations recited in independent claim 27 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claims 48-50, as well. Accordingly, Appellants respectfully submit that claims 48-50 are allowable by virtue of their dependency upon claim 27 as outlined above. Appellants respectfully request that the rejection of claims 48-50 under 35 U.S.C. § 103 be reversed.

**C. The Rejection of Claims 18 and 33 under 35 U.S.C. §103(a) as being Unpatentable over Eilat et al. in view of Greenhalgh et al. Should be REVERSED.**

Claims 18 of the present application depend upon claim 17 and thereby includes all the limitations of independent claim 17 while reciting additional features of a method of the present invention. As discussed above, the cited reference fails to disclose all the elements and limitations recited in independent claim 17 of the present application. Therefore, the applied reference also fails to disclose all the features and limitations of dependent claim 18, as well. The Examiner relied upon the Greenhalgh article to provide “displaying player controls in a first portion of a screen viewed by said first player and said video images in a second portion of said screen using said first markup language code.” See page 8, paragraph 1 of the March 6, 2006, Office Action.

There is no disclosure in the cited portions of the Greenhalgh article of either embedding markup language code in a video broadcast stream where the markup language code includes a user interface or selecting at least one of the first and second players for a game based on at least one parameter provided by the first or second players. Further, the Greenhalgh article may display player controls in a first portion of a screen viewed by the first player and video images in a second portion of the screen, but there is no disclosure in the Greenhalgh article of using a markup language code with which to display these portions of the screen. Appellants respectfully submit that the Greenhalgh article fails to remedy the deficiencies of the Eilat application with regard to these claimed features.

Accordingly, Appellants respectfully submit that claim 18 is allowable by virtue of its dependency upon claim 17 as outlined above. Appellants respectfully request that the rejection of claim 18 under 35 U.S.C. § 103 be reversed.

Claims 33 of the present application depend upon claim 27 and thereby includes all the limitations of independent claim 27 while reciting additional features of a system of the present invention. As discussed above, the cited reference fails to disclose or suggest all the elements and limitations recited in independent claim 27 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claim 33, as well. Accordingly, Appellants respectfully submit that claim 33 is allowable by virtue of its dependency upon claim 27 as outlined above. Appellants respectfully request that the rejection of claim 33 under 35 U.S.C. § 103 be reversed.

**D. The Rejection of Claims 51-53 under 35 U.S.C. §103(a) as being Unpatentable over Eilat et al. in view of Lavanchy et al. U.S. 6,758,754 Should be REVERSED.**

Claim 51 of the present application depend upon claim 17 and thereby includes all the limitations of independent claim 17 while reciting additional features of a method of the present invention. As discussed above, the cited reference fails to disclose or suggest all the elements and limitations recited in independent claim 17 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claim 51, as well. The Examiner

relied upon the Lavanchy patent to provide “assigning the first player or second player to a team.” See page 8, paragraph 3 of the March 6, 2006, Office Action.

While the system of the Lavanchy patent may place a player in a match with the fewest human players, there is no disclosure in the cited portions of the Lavanchy patent of either embedding markup language code in a video broadcast stream where the markup language code includes a user interface or selecting at least one of the first and second players for a game based on at least one parameter provided by the first or second players. Accordingly, the Lavanchy patent fails to disclose or suggest all the elements and limitations recited in independent claim 17 of the present application. As such, Appellants respectfully submit that claim 51 is allowable by virtue of its dependency upon claim 17 as outlined above. Appellants respectfully request that the rejection of claim 51 under 35 U.S.C. § 103 be reversed.

Claim 52 of the present application depend upon claim 27 and thereby includes all the limitations of independent claim 27 while reciting additional features of a system of the present invention. As discussed above, the cited reference fails to disclose or suggest all the elements and limitations recited in independent claim 27 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claim 52, as well. Accordingly, Appellants respectfully submit that claim 52 is allowable by virtue of its dependency upon claim 27 as outlined above. Appellants respectfully request that the rejection of claim 52 under 35 U.S.C. § 103 be reversed.

Claim 53 of the present application depend upon claim 39 and thereby includes all the limitations of independent claim 39 while reciting additional features of a

system of the present invention. As discussed above, the cited reference fails to disclose or suggest all the elements and limitations recited in independent claim 39 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claim 53, as well. Accordingly, Appellants respectfully submit that claim 53 is allowable by virtue of its dependency upon claim 39 as outlined above. Appellants respectfully request that the rejection of claim 53 under 35 U.S.C. § 103 be reversed.

**E. The Rejection of Claim 54 under 35 U.S.C. §103(a) as being Unpatentable over Eilat in view of Korilis, and in further View of Lavanchy Should be REVERSED.**

Claim 54 of the present application depend upon claim 44 and thereby includes all the limitations of independent claim 44 while reciting additional features of a system of the present invention. As discussed above, the cited references fail to disclose or suggest all the elements and limitations recited in independent claim 44 of the present application. Therefore, the applied reference also fails to disclose or suggest all the features and limitations of dependent claim 54, as well. Accordingly, Appellants respectfully submit that claim 54 is allowable by virtue of its dependency upon claim 44 as outlined above. Appellants respectfully request that the rejection of claim 54 under 35 U.S.C. § 103 be reversed.

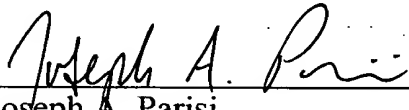


**VIII. CONCLUSION**

For all of the reasons discussed above, Appellants respectfully submit that all pending claims 17-54 define patentable subject matter under 35 U.S.C. § 103(a). Accordingly, Appellants respectfully request this Honorable Board to reverse the rejections of claims 17-54.

Respectfully submitted,

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**IX. CLAIMS APPENDIX**

The following is a complete listing of claims in the application.

1. (Withdrawn) A system for playing an interactive sports simulation game comprising:

a broadcast network that transmits said interactive sports simulation game to a plurality of viewers that receive and display said interactive sports simulation game;

a server operative to generate said interactive sports simulation game, said server adapted to permit at least one of said viewers to interact with said interactive sports simulation game by being interactively coupled to said server such that said server can receive transmissions from and send transmissions to said viewer to play said interactive sports simulation game.

2. (Withdrawn) The system of claim 1 wherein said game is delayed from being broadcast at the time said game is being played.

3. (Withdrawn) The system of claim 1 wherein said interactive sports simulation game is an interactive football sports simulation.

4. (Withdrawn) The system of claim 1 wherein said game is a championship game of a tournament.

5. (Withdrawn) A system for playing an interactive sports simulation game comprising:

at least one set top box connected to an input device and operative to process signals from said input device and generate a real time signal of said input device and operative to send and receive interactive messages;

a server coupled to said set top box and operative to send and receive said messages, said server operative to generate a broadcast signal containing at least a portion of said interactive sports simulation game, transmit said game to a plurality of viewer's televisions capable of receiving said computer generated game and displaying said computer game to said viewers;

wherein said server operates to initiate a game and permit said viewers desiring to interact with said game to play said sports simulation game.

6. (Withdrawn) The system of claim 5 wherein said game is delayed from being broadcast at the time said game is being played.

7. (Withdrawn) The system of claim 5 wherein said game is a football sports simulation.

8. (Withdrawn) The system of claim 5 wherein said game is a championship game of a tournament.

9-16. (Canceled)

17. (Previously Presented) A method of implementing an interactive game between at least two players and viewed by a least one non-participating viewer in an interactive television broadcast system comprising:

launching said interactive game on a video game server connected to said television broadcast system that controls play of said interactive game;

embedding first markup language code in a video broadcast stream, said first markup language code generated by said video game server and broadcast to a first set top box at a specific address in said video broadcast system, said first markup language code comprising a user interface for a first player of said at least two players;

embedding second markup language code in said video broadcast stream, said second markup language code generated by said video game server and broadcast to a second set top box at another specific address in said video broadcast system, said second markup language code comprising a user interface for a second player of said at least two players;

selecting at least one of the first and second players for said interactive game based on at least one parameter provided by the first or second players;

transmitting a game control signal, that is generated in response to an input from said first player playing said interactive game, and message data from said first set top box to said video game server;

receiving said game control signal and said message data at said video game server;

generating video images in said video game server in response to said signal;

inserting said video images into said video broadcast stream;  
transferring said message data from said video game server to said second set top box;  
and broadcasting said video broadcast stream to a plurality of set top boxes including set top boxes of said at least two players and said at least one nonparticipating viewer.

18. (Previously Presented)      The method of claim 17 further comprising:  
displaying player controls in a first portion of a screen viewed by said first player and said video images in a second portion of said screen using said first markup language code.

19. (Previously Presented)      The method of claim 17 wherein said step of embedding first markup language code further comprises:  
embedding HyperText Markup Language (HTML) code in said video broadcast stream.

20. (Previously Presented)      The method of claim 17 wherein said step of broadcasting further comprises:  
combining said video images with second video images and broadcasting combined images to said plurality of set top boxes including said at least one set top box associated with a non-participating viewer.

21. (Previously Presented)      The method of claim 17 further comprising:  
transmitting said game control signal to said second player.
22. (Previously Presented)      The method of claim 20 further comprising:  
altering the display produced by said second set top box in response to said  
game control signal.
23. (Previously Presented)      The method of claim 17 wherein said step of  
generating video images further comprises:  
generating video images that are an overview of said interactive video game.
24. (Previously Presented)      The method of claim 17 wherein said  
interactive game is a sports game.
25. (Previously Presented)      The method of claim 17 wherein said  
interactive game is a casino game.
26. (Previously Presented)      The method of claim 17 wherein said  
interactive game is a game show game.
27. (Previously Presented)      An interactive game system comprising:  
a server that executes an interactive game and that controls play of said  
interactive game and, produces video images of said game;

a television broadcast system connected to said server that broadcasts a video broadcast stream containing said video images to a plurality of set top boxes including set top boxes of at least two players of said interactive game and at least one non-player of said game, and that broadcasts embedded markup language code, if any, addressed individually to said set top boxes of at least two players;

a first set top box connected to said television broadcast system that receives said video broadcast stream and that acquires first markup language code addressed to said first set top box wherein said first markup language code is embedded in said video broadcast stream and provides a first user interface for a first player;

a second set top box connected to said television broadcast system that receives said video stream and that acquires second markup language code addressed to said second set top box wherein said second markup language code is embedded in said video broadcast stream and provides a second user interface for a second player; and

a third set top box connected to said broadcast system that receives said video stream and that outputs said video images to a display device of at least one viewer that does not participate in said game,

wherein said server is further configured to receive a data message from said first set top box and transfer said data message to said second set top box; and

wherein at least one of the first and second players for the interactive game is selected based on at least one parameter provided by the first or second players.

28. (Previously Presented)      The interactive game system of claim 27 wherein said first markup language code is HyperText Markup Language (HTML) code.

29. (Previously Presented)      The interactive game system of claim 27 further comprising:  
  
second video images that are combined with said video images and said embedded data, if any, to create said video stream.

30. (Previously Presented)      The interactive game system of claim 27 further comprising:  
  
a network that communicates an input received from said first player at said first set top box to said server.

31. (Previously Presented)      The interactive game system of claim 30 wherein said network comprises a back-channel in said broadcast system.

32. (Previously Presented)      The interactive game system of claim 30 wherein said network comprises a connection to the Internet.

33. (Previously Presented)      The interactive game system of claim 27 wherein said first markup language code further comprises:



code that displays a user interface in a first portion of a display screen and that displays said video images in a second portion of said display screen.

34. (Previously Presented)      The interactive game system of claim 27 wherein said first markup language code further comprises:

code that produces a first graphical image of said game in said first set top box.

35. (Previously Presented)      The interactive game system of claim 34 wherein said second markup language code further comprises:

code that produces a second graphical image that differs from said first graphical image of said game in said second set top box.

36. (Previously Presented)      The interactive game system of claim 27 wherein said interactive game is a sports game.

37. (Previously Presented)      The interactive game system of claim 27 wherein said interactive game is a casino game.

38. (Previously Presented)      The interactive game system of claim 27 wherein said interactive game is a game show game.

39. (Previously Presented)      An interactive game system for playing an interactive game between at least two players of said interactive game on a broadcast

television network and broadcasting said interactive game to at least one additional viewer of said interactive game that is not a participant in said game, said system comprising:

first means for running said interactive game and producing video images of said game;

second means for producing a video signal from said video images and embedding markup language code addressed to specific receiving means in said signal, said markup language code including code, if any, that is necessary for said players to play said game;

broadcast television network means for broadcasting said video signal; first receiving means for receiving said video signal from said broadcast television network means and acquiring first markup language code addressed to said first receiving means embedded in said video signal, said first markup language code comprising a user interface for a first player of said at least two players;

second receiving means for receiving said video signal from said broadcast television network means and acquiring second program code addressed to said second receiving means embedded in said video signal, said second markup language code comprising a user interface for a second player of said at least two players;

means for receiving a data message from said first receiving means and transferring said data message to said second receiving means;

means for selecting at least one of the first and second players for said interactive game based on at least one parameter provided by the first or second players; and

third receiving means for receiving said video signal from said broadcast television network means and presenting said video images to said at least one additional viewer that is not a participant in said game.

40. (Previously Presented)      The interactive game system of claim 39 further comprising:

network means that transfer a signal generated in response to an input from said first player from said first receiving means to said first means.

41. (Previously Presented)      The interactive game system of claim 39 wherein said interactive game is a sports game.

42. (Previously Presented)      The interactive game system of claim 39 wherein said interactive game is a casino game.

43. (Previously Presented)      The interactive game system of claim 39 wherein said interactive game is a game show game.

44. (Previously Presented)      An interactive game system comprising:  
a server that executes an interactive game and that controls play of said interactive game and produces video images of said game;  
a television broadcast system connected to said server that broadcasts a video broadcast stream containing said video images to a plurality of set top boxes including

set top boxes of at least two players of said interactive game and at least one non-player of said game, and that broadcasts embedded markup language code, if any, addressed individually to said set top boxes of at least two players;

a first set top box connected to said television broadcast system that receives said video broadcast stream and that acquires first markup language code addressed to said first set top box wherein said first markup language code is embedded in said video broadcast stream and provides a first user interface for a first player;

a second set top box connected to said television broadcast system that receives said video stream and that acquires second markup language code addressed to said second set top box wherein said second markup language code is embedded in said video broadcast stream and provides a second user interface for a second player; and

a third set top box connected to said broadcast system that receives said video stream and that outputs said video images to a display device of at least one viewer that does not participate in said game,

wherein said server is further configured to receive a data message from said first set top box and transfer said data message to said second set top box; and

wherein at least one of the first and second players for the interactive game is selected based on at least one parameter provided by the first or second players, and

wherein the registration of at least one of the first and second players is solicited through a television advertisement.

45. (Previously Presented)      The method of claim 17 wherein the step of selecting at least one of the first and second players further comprises the step of

ranking players based upon the at least one parameter provided by the first or second players.

46. (Previously Presented) The method of claim 17 wherein the at least one parameter provided by the first or second players is stored in a database and comprises at least one variable set by the first or second player.

47. (Previously Presented) The method of claim 17 wherein the at least one parameter provided by the first or second players is selected from the group consisting of the level of difficulty for the game, a ranking of the first or second player, previous experience with the game, and a self ranking evaluation.

48. (Previously Presented) The system of claim 27 wherein the selection of the first or second players is based on a ranking according to the at least one parameter provided by the first or second players.

49. (Previously Presented) The system of claim 27 wherein the at least one parameter provided by the first or second players is stored in a database and comprises at least one variable set by the first or second player.

50. (Previously Presented) The system of claim 27 wherein the at least one parameter provided by the first or second players is selected from the group

consisting of the level of difficulty for the game, a ranking of the first or second player, previous experience with the game, and a self-ranking evaluation.

51. (Previously Presented)      The method of claim 17 further comprising:  
assigning the first player or second player to a team.

52. (Previously Presented)      The interactive game system of claim 27  
wherein the first player or second player is assigned to a team.

53. (Previously Presented)      The interactive game system of claim 39  
wherein the first player or second player is assigned to a team.

54. (Previously Presented)      The interactive game system of claim 44  
wherein the first player or second player is assigned to a team.

**X. EVIDENCE APPENDIX**

None.

**XI. RELATED PROCEEDINGS APPENDIX**

None.